

**BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001**

In the Matter of:

**Pinehurst Village Post Office
Pinehurst, NC 28370
(John M. Marcum and Bettye M.
Marcum, Petitioners)**

Docket No. A2011-49

**Petitioner(s) Marcum Brief in Support of
Their Petition for Appeal and Suspension**

Posted on September 22, 2011

1. In accordance with applicable law, 39USC 404(d) (5), the Petitioners request the Postal Regulatory Commission (PRC) to review the US Postal Service's (USPS) determination on the basis of the record before USPS in the making of the determination.
2. In their original petition for review, appeal and suspension, dated August 11, 2011, petitioners submitted a brief setting forth eight preliminary concerns which in their view warranted review and suspension of the USPS closure determination. Since that filing, we have not found any errors in these original concerns and ask that they be considered as incorporated in this petition for the purposes of the review.
3. We note the continuing problem of USPS not following the notification, posting and other requirements, and the absence of any response to our motion for suspension. In light of that failure, Petitioners ask the motion be granted immediately and hereby renew that request for suspension for the duration of the proceedings. In that context, we note that USPS has failed to observe Article 3001.117 and post the documents now on file in the

Docket at the affected postal offices “for inspection by affected postal patrons,” This has caused irreparable harm to petitioners by the damaging effect of reducing the number of other petitioners and intervenors wishing to join in our appeal. The stated remedy in Article 3001.117 for this failure is: “Failure by the Postal Service to display prominently any such document shall be deemed sufficient reason to suspend the effectiveness of the Postal Service determination under review until final disposition of the appeal.” We request this be enforced without delay.

4. In preparing this brief, petitioners have been severely handicapped by USPS having redacted virtually all business and client information in submitting its administrative record on September 22, 2011. USPS has applied in that submission for “non-public status” and makes several arguments to show that it could be harmed by revealing certain client and fiscal data which could be used by its competitors to gain some market advantage. However, we already have several Post Box Plus and UPS stores in the Pinehurst area and whatever challenge they may present to USPS has long since been experienced. Also, in the text of its questionnaire, USPS stated categorically that the results would be made public (see attachment to USPS record). USPS became a public corporation in 1971 and there is no basis for its withholding client and earnings records any more than any other corporation like GM or GE, or even a government agency like Department of Agriculture. A simple Freedom of Information act inquiry would require the disclosure in most cases unless national security information were involved.
5. The reasons for redaction also do not meet the standards for withholding information from the public under 39USC504(g). Therefore, petitioners move that USPS’s request for treatment as a “non-public entity” be denied and the redaction be lifted so that petitioners can have the information needed to verify USPS assertions regarding financial impact and other issues. Petitioners would not object to USPS requests for ancillary controls on the unredacted information, for example limiting publication or further distribution by petitioners if needed.
6. In its submission, USPS states “As an initial matter, this appeal concerns the discontinuance of a station, which is a retail unit subordinate to a Post

Office.” In fact this post office has been in continuous operation for one hundred sixteen years, most of that time as the only Pinehurst post office.. The newer facility near Aberdeen was built in the early 1990s and both have been well utilized since then. Further the population of Pinehurst has quadrupled during that time, from four thousand to sixteen thousand and more near term growth is certain from three new resorts under construction. So the distinction made by USPS is quite arbitrary and both facilities would seem to be more than just a “retail unit.” Either one or both could be treated as a main post office by any reasonable definition. In any event, according to the proposed new regulations, this would be a distinction without a difference and would not justify withholding or redacting information.

7. In many of its responses to the redacted letters from clients, the USPS frequently stated there “is no impact on the business community.” In fact that is completely contrary to the record which is replete with numerous complaints from business owners. Further, petitioners just last week received about fifteen letters from business owners in the village center wanting to join the appeal. Each of them formally stated in writing their opposition to the closing, and supported the Marcum’s appeal (business names, owners, and addresses appended). One in particular, Ms. Carolyn Williams, owner of Cameron and Company, wrote

“Since my 9 years in business in the Village, I gratefully state that my business has been growing ever since we opened in 2003. I do not recall a month that our numbers have not increased until the Post Office closed, I knew it would have an effect but never did I realize it would be to this degree. We are losing on average 75\$ to 100\$ a day and more on Monday's. We are on the front and have a great spot, so I can imagine how this event has hurt my fellow business owners.”

This is typical, not unusual, and many other shop owners are also already able to quantify their losses. In a very small historic downtown area, the loss of about a thousand visitors each day is likely to have a devastating impact on our business community. Together with the names appended, the earlier respondents to the USPS objecting to its planned closure

amount to more than eighty percent of the businesses in the historic district

8. As stated in our original appeal, our analysis does not support the claim of the USPS that the Village unit is unprofitable and it would save 66 thousand dollars by closure. Although USPS has since redacted the necessary information, our conversations during the summer with Jackie Williams and others at the USPS District office in Charlotte indicated they assumed in arriving at that “savings” number that all current box owners would transfer their service to the facility near Aberdeen, there would be no curbside delivery cost, and that all of the “through the window” business would also go there. In fact, initial results show these assumptions were not valid. The Village post office has almost 2000 boxes and most have been rented in the past. In the months leading up to the closure, many box holders had already withdrawn, erecting their own mailboxes and in August just before closure, the USPS said only 1260 were still rented. Although we do not have precise data, It appears now that nearly half the box renters have withdrawn as customers either erecting their own boxes or using the service in their gated community.

At an approximate average yearly rental of \$100 per box , and a presumed loss of about one thousand customers (half the boxes) that represents around one hundred thousand dollars. Also, USPS studies have reportedly indicated an average cost of one hundred dollars per customer for curbside delivery, which could be up to another one hundred thousand, and there will be some loss in window services (which were pulling in almost \$400 thousand) by switching parcel mailing to Post Box Plus or others. So the likely drop in revenues compared to the USPS assumptions amounts to upwards of \$200,000 which overwhelms the scant savings of \$66,000 in their estimate. Looked at another way, the USPS owned station is fully depreciated, had one staff member, and low utilities at a combined cost of about \$66,000, and before the closing was initiated was taking in perhaps a quarter of a million dollars—a nice profit under any criteria. Petitioners

regret they cannot be more precise, pending removal of redactions on the essential financial data.

9. Another very important aspect of this closure is that it has such a negative effect on the Historic District of Pinehurst. It has been the cultural and business center of the village for over a century and is the main magnet that draws residents to the village center. We have been informed by USPS officials in Charlotte and Washington, and by the historical authorities that this is the only National Landmark District post office ever to be proposed for closure. In that light, it is most unfortunate that USPS did not even consult with local, state, or federal authorities as required by Section 106, and by the President's Advisory Commission on Historic Preservation, under the National Historic Preservation Act. In fact, Section 106 requires careful weighing of the cultural and historic, as well as economic, impacts on the village and this was not done. We have been in touch with all these historic agencies and they have reported considerable difficulty in gaining the expected cooperation from USPS.
10. Petitioners recognize the difficult circumstances USPS faces in trying to accomplish its plan for achieving profitability. But the USPS goal of closing small, underutilized and unprofitable stations is not applicable in the case of the Village of Pinehurst. There is a brisk business in the Village station, with over a thousand daily users, and over a hundred twenty more through the window, and it returns a nice profit based on the USPS information provided prior to the closure.
11. An important aspect of this station is that it was rebuilt in 1935 as a WPA project under the New Deal. It is owned by USPS and simply locked at this time, with all boxes in place. All that would be needed is to turn the key and resume the operation. It would also not undermine the USPS objectives in other stations scheduled for closure, even those that are historic, because of its unique status as the only National Landmark District station in the United States..

12. In conclusion, since the original criteria for the USPS closing program do not seem to apply to this Station, and recognizing its unique historical status, we respectfully request that PRC remand the decision to close the facility to USPS, and urge it to reconsider and suspend the closure based on the important distinctions and findings above.

By the Petitioners:

John and Bettye Marcum

**Annex: List of filings from Pinehurst businesses
supporting the Marcum's appeal in the last week**

1. Carol Boxell, the Village Fox Boutique, 90 Cherokee Rd. 910 255 8369
2. Leonard Ward, Eyemax Optical, the Theatre Building, 910 235 0291
3. Bruce Bishop, Cool Sweats, PO Box 1927, Pinehurst 910 295 3905
4. Keith McDaniel, Green Gate Olive Oils, Chincoteague rd, 910 986 0880
5. Elizabeth K Hamilton, Red Door Café, PO Box 1923, 910 421 1141
6. Caroline Miller, Cameron & Co., 105 Cherokee Rd, 2957200
7. Larry Demolet, Brenner RE, 30 Chinquapin rd, 910 315 4658
8. Steve Pattison, Darling House Pub, 40 Chinquapin rd, 910 295 3195
9. Eldora Wood, The Potpourri, 120 Market st, 910 295 6502
10. Ilana Stewart, Old Sport and Gallery, Harvard Bldg, 910 295 9775
11. Robert A Yarter, Kraz elegant Cakes, Market Square, 910 235 3853
12. Ann Beth Simmons, Dazzle, 3 Market Square, 910 420 1145
13. Marian R Caso, Lady Bedfords Tea Parlour, Chinquapin rd, 910 255 0110
14. Emily Hewson, Prudential GOS, 42 Chinquapin rd. 910 295 5504
15. Luis and Helen Thalassouris, Theo's Taverno, Chinquapin rd,
16. Marie Yeroes, Teramisu, !!! Chinquapin rd. 910 295 5811